

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IVAN SANTIAGO,)	
Plaintiff,)	C.A. No. 04-0746-JLT
)	
v.)	
)	
WILLIAM J. FEENEY, MARCUS EDDINGS,)	
AND THE CITY OF BOSTON,)	
Defendants)	
)	

PLAINTIFF'S PRE-TRIAL MEMORANDUM

The plaintiff Ivan Santiago respectfully submits the following Pre-Trial Memorandum, pursuant to this Court's procedural order.

1. **SUMMARY OF THE EVIDENCE**

Plaintiff will offer the following evidence at trial:

On March 20, 2003, defendant officers subjected plaintiff to an illegal cavity search at 58 Cheney Street, Apartment 5 in Dorchester. Plaintiff lived at 58 Cheney Street with his girlfriend Jacqueline Lugo and their two-year-old son. On the date of the search, the defendants were executing a search warrant. The target of the investigation was Rolando Lugo, the brother of plaintiff's girlfriend. Mr. Lugo did not reside at 58 Cheney Street, but sometimes visited and spent the night.

When the officers entered the apartment to execute the search, Rolando Lugo immediately directed the officers to drugs he had secreted in the apartment. Neither plaintiff nor Jacqueline Lugo was aware that Mr. Lugo had hidden narcotics in their home. Mr. Lugo also produced drugs from the area of his buttocks. Then, at the direction of defendant Feeney, defendant Eddings subjected Mr. Santiago to an anal cavity search. Eddings took plaintiff into the bathroom and told him to take off his

clothing piece by piece. Once plaintiff had removed his clothes defendant Eddings told plaintiff to lift up his scrotum, and then asked him to turn around, bend forward, and “spread his butt cheeks.” Defendant Eddings inserted his finger into plaintiff’s anus while plaintiff was bending over. This search was extremely degrading and humiliating and caused plaintiff extreme emotional distress.

2. FACTS ESTABLISHED BY PLEADINGS OR STIPULATIONS

- a) On March 14, 2003, Officer Paul Quinn sought a search warrant for a search of 58 Cheney St, Apt. #5 in Dorchester, MA.
- b) Plaintiff was not arrested, or charged with a crime.

3. CONTESTED FACTS

All facts, except for those delineated above are contested.

4. JURISDICTIONAL QUESTIONS

None.

5. QUESTIONS RAISED BY PENDING MOTIONS

On October 31, 2006, less than a week before trial, Defendants filed a Motion to Dismiss William Feeney. This motion is extremely untimely, as it is filed on the eve of trial. The Courts Summary Judgment decision, upon which defendants’ motion is based, was issued on July 26, 2005, over a year ago (15 months). There is no justification for this delay. Plaintiff will file a Motion in Opposition to the Motion to Dismiss.

Plaintiff intends to file the following motions before trial:

- a) Motion to Sequester Witnesses

6. ISSUES OF LAW INCLUDING EVIDENTIARY QUESTIONS

- a) Issues of law:

Whether plaintiff's Fourth Amendment Rights were violated by the anal cavity search.

b) Evidentiary issues:

None that plaintiff is aware of at this time.

7. REQUESTED AMENDMENTS TO THE PLEADINGS

There are no requested amendments to the pleadings at this time.

8. ADDITIONAL MATTERS IN AID OF DISPOSITION

None

9. PROBABLE LENGTH OF TRIAL

Approximately one week (5 days).

10. WITNESSES PLAINTIFF INTENDS TO CALL AT TRIAL

1. The parties to this action
2. Officer Michael Doyle
3. Officer Phillip Bliss
4. Officer Clifton Hayes
5. Officer Michael Ross
6. Officer William Shaw
7. Officer Juan Seoane
8. Officer Paul Quinn
9. Officer Jean Acloque
10. Detective Roy Frederick
11. Officer Clifton Haynes

12. Jacqueline Lugo

13. Rolando Lugo

14. Mrs. Cruz

Plaintiff reserves the right to call any witness on the Defendants' witness list.

11. PLAINTIFF'S PROPOSED EXHIBITS

- a) Strip and body cavity search procedures
- b) Photographs of apartment located at 58 Cheney St #5
- c) Search Warrant for 58 Cheney St. #5, and Affidavit in Support of Application
- d) BPD Incident Reports related to incident

Plaintiff may also rely upon Defendants' proposed exhibits, and reserves the right to make a timely supplement to this list.

Respectfully Submitted,
The Plaintiff, Ivan Santiago
By his attorneys,

//s// Jessica D. Hedges
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CERTIFICATE OF SERVICE

I, Jessica D. Hedges, hereby certify that, on this the 1st day of November, 2006, I have caused to be served a copy of this document, where unable to do so electronically, on all counsel of record in this matter.

//s// Jessica D. Hedges
Jessica D. Hedges